

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and

THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 6611 of 2005

Between:

B. Nagapoorna Chandra Rao, S/o. Nacharaiah,
Uppudi Village, Repelle Mandal, Guntur District.

..... PETITIONER

AND

- 1 The District Collector, Guntur, Guntur District.
- 2 The Revenue Divisional Officer, Tenali, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an order or orders more particularly one in the nature of writ of Mandamus directing the respondents to consider the case of the petitioner for recruitment by transfer as Attender or Watchman from the Category of village Servant without insisting on maximum age of 33 Years, by holding and declaring that the village Servants are entitled for recruitment by Transfer as Attenders and Watchman in the last Grade Service and age restriction is not applicable to recruitment by transfer from the post of Village Servant, by setting aside the Judgment of the A.P. Administrative Tribunal in O.A.No.6276/2003 with VMA.No.800/2003, dt. 23.3.2005 and pass such other order or orders.

Counsel for the Petitioner:MR.P.V.SUBRAHMANYA SARMA

Counsel for the Respondents No.1&2: GP FOR SERVICES II

The Court made the following :

ORDER: (Per GB, J)

This Writ Petition is filed assailing the Order dated 23.3.2005, passed by the A.P. Administrative Tribunal, in O.A.No.6276 of 2003 with VMA.No.800 of 2003.

2) The matter relates for consideration of the case of the applicant for appointment to the post of Attender by recruitment by transfer from the post of Village Servant. The petitioner is the applicant before the Tribunal. He was working as Village Secretary, Uppudi Gram Panchayat, Uppudi Village, Repalle Mandal. The Department on the ground rejected his case for appointment by recruitment by transfer as Attender that he was over-aged, viz., he is above 33 years of the age. Therefore, he filed O.A.No.6276 of 2003 seeking appropriate relief. The Tribunal, however, dismissed the O.A., on the ground that no relaxation was granted in respect of the village servants and therefore, the petitioner cannot claim the appointment by transfer as Attender.

3) The learned counsel for the petitioner, however, submits that inasmuch as the appointment to the post of Attender by recruitment by transfer, the village servants are also entitled for consideration. There is no mention of age limit in respect of such candidates who are appointed by recruitment by transfer.

Inasmuch as a situation, it would not appropriate to the Department to insist that the candidate should be below 33 years of age as prescribed and required for the first level entry.

4) We have heard the learned counsel for the petitioner and the learned Government Pleader for Services. It is under the A.P. Last Grade Service Rules, 1992 (for short ‘the Rules), under **Rule-4**, the method of appointment stipulated, which reads as follows:

Category	Method of Appointment
1. (a) Jamedar (b) Jamedar Sweeper/Jamedar c. Head Mali/Head Malan d. Daroga/Head Chowkidar/ Head Watchman.	By promotion from Category 2(a) or 2(b), as the case may be. By Promotion from Category-8 By Promotion from Category-II. By Promotion from Category-3 (i) By direct recruitment. OR (ii) If any person in Category 2(b) or Categories 3 to 12 possess the qualifications prescribed for direct recruitment for appointment to the posts in Category 2(a) and are willing for transfer, by transfer of such personnel. (i) By direct recruitment. OR (ii) If any person in Category 2(a) or Categories 2 to 12 possesses the qualifications prescribed for direct recruitment for appointment to the post in Category 2(b) and are willing for transfer, by transfer of such personnel. By direct recruitment.
2.(a) Attender and other posts listed in the category 2(a) (b) Attender in the O/o the Non-ISF Records, Hyderabad. 3 to 12. (3)/(4)/(5)/(6)/(7)/ (8)/(9)/(10) /(11)/(12).	

Note 1:- All promotions and transfers indicated in the above shall be made within each unit of appointment.

Provided that notwithstanding anything contained in these rules preference shall be given to the ex-National Cadet Corps and Auxilliary Cadet Corps Personnel in making appointments to the posts of Lascars and Attenders in the National Cadet Corps Offices.

Note 2:- Appointment to the posts of Attenders, the qualified Village Servants shall be given preference for such appointment by transfer in the District Revenue Establishment.

(**Note:3:-** All appointments to the post of Watchman, in all the Women Welfare institutions which are residential in nature shall be made by the woman candidates only).(G.O.Ms.No.295, General Administration (Ser.B) Department., Dt.8.8.2000)”

5) Therefore the reading of Note.2 above, which clearly shows the channel for the appointment to the posts of Attenders by recruitment by transfer. The petitioner is admittedly is a village servant and he is an in-service candidate serving in the Government right from the date of his appointment. In such a situation, it is to be considered whether any outer age limit is fixed in the rules. We have gone through the entire rules and we do not find any such ceiling is fixed in respect of Village Servants who are to be considered for appointment as Attender. The question of relaxation would not arise in this case inasmuch as no age limit has been fixed, obviously, because he is in-service candidate. Under these circumstances, we are not in agreement with the findings recorded by the Tribunal.

6) Accordingly, the order of the Tribunal is set aside. The Writ Petition is allowed. Respondents are directed to consider the case of the petitioner to the post of Attender without insisting the age of 33-years in the existing vacancies and this exercise is to be done within a period of two months from the date of receipt of the copy of this order. No order as to costs.

G. BIKSHAPATHY, J

P.S.NARAYANA, J

12th April 2005.

BCS+BCJ

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the acting Chief Justice on this Tuesday the Twelfth day of April, Two thousand and five.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The District Collector, Guntur, Guntur District.
2. The Revenue Divisional Officer, Tenali, Guntur District.
3. 2 CCs to the G.P. for Services-II, A.P. High Court Buildings, Hyderabad (OUT)
4. 2 CD copies,
5. 1 CC to MR.SUBRAHMANYA SARMA

Form-NIC-OGS/WP{JGK}